

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3249

IN THE MATTER OF:

Served November 4, 1988

Investigation of Compliance and	)	
Order to Show Cause Why Operating	)	
Authority Should Not be Suspended	)	
or Revoked, Directed to:	)	
	)	
ROBERT COATES T/A ROBERT COATES	)	Case No. MP-88-20
LIMOUSINE SERVICE	)	
	)	
COTTER LIMOUSINE OF WASHINGTON,	)	Case No. MP-88-21
INC.	)	
	)	
JAPAN TRAVELERS SERVICE, INC.	)	Case No. MP-88-22
	)	
BROWN'S LIMOUSINE CREW CAR, INC.	)	Case No. MP-88-26
	)	
PERKINS AMBULANCE AND WHEELCHAIR	)	Case No. MP-88-30
SERVICE, INC.	)	
	)	
MADISON LIMOUSINE SERVICE, INC.	)	Case No. MP-88-32

By Order No. 3180, served June 20, 1988, and incorporated herein by reference, these investigations were instituted pursuant to Title II, Article XII, Section 4(g) of the Compact, for the purpose of determining whether Certificate of Public Convenience and Necessity No. 67 of Robert Coates trading as Robert Coates Limousine Service (Coates); Certificate of Public Convenience and Necessity No. 69 of Cotter Limousine of Washington, Inc. (Cotter); Certificate of Public Convenience and Necessity No. 74 of Japan Travelers Service, Inc. (JTS); Special Authorization No. 112 of Brown's Limousine Crew Car, Inc. (Brown's); Certificate of Public Convenience and Necessity No. 126 of Perkins Ambulance and Wheelchair Service, Inc. (PAWS); and Special Authorization No. 132 of Madison Limousine Service, Inc. (MLS) should be suspended or revoked for failure of the respective holders thereof to file an annual report in compliance with Title II, Article XII, Section 10 of the Compact. Coates, Cotter, JTS, Brown's, PAWS, and MLS were each made a party-respondent in the investigation pertaining to each, and those proceedings were consolidated for the purpose of hearing. Order No. 3180 directed respondents to appear at the scheduled consolidated hearing and present such evidence as each might deem pertinent to show good cause why its operating authority from the Commission should not be revoked. The consolidated hearing was held on July 26, 1988.

### SUMMARY OF EVIDENCE

William H. McGilvery, the Commission's Executive Director, testified that, on or about March 15, 1988, all respondents herein (as well as all other carriers holding authority from the Commission) had been mailed annual report forms accompanied by a memorandum indicating that a signed and notarized report for 1987 was due in the Commission's offices no later than Monday, May 2, 1988. The memorandum called special attention to the Commission's leasing requirements. A review of the service list in these investigations indicated that all parties-respondent had been served a copy of Order No. 3180, setting the matter for public hearing and assessing each party-respondent an amount preliminarily estimated to cover hearing costs. No 1987 WMATC annual report, request for extension of time, or any written communication regarding this matter had been received from Coates, Cotter, JTS, or PAWS as of the date of the hearing. After Order No. 3180 was served but prior to the hearing, the Commission received a letter from Brown's, dated June 24, 1988, stating that Brown's had not received annual report forms and asking that the forms be sent to the attention of Mr. Terry Southard at a specific address. A note on the face of that letter indicates that the Commission's office manager mailed two copies of the forms to Brown's on June 27, 1988. On the day preceding the hearing, MLS delivered to the Commission several copies of its request to the Internal Revenue Service for automatic extension of time to file its tax return. Hearing assessments were paid as directed by Order No. 3180 by Cotter, PAWS, and MLS.

Mr. Gregory Perkins, president of respondent Perkins Ambulance and Wheelchair Service, Inc., testified that he had received all information that the Commission had sent out regarding the 1987 annual reports. Mr. Perkins delivered his books, accounts, and related information to a named accountant in May. To the best of Mr. Perkins' knowledge his company's 1987 WMATC annual report has been prepared. Mr. Perkins has employed this particular accountant for many years and believes him to be a reliable person. However, due to an illness in his accountant's family, the report has not been delivered to Mr. Perkins.

Mr. Marwan Hajoun, president of Madison Limousine Service, Inc., testified that, as the result of moving from one office location to another, his company had misplaced some invoices for calendar year 1987. This precluded MLS's accountant from closing the year, and he requested an automatic extension of time for filing MLS's federal income tax return. The missing records have now been located (with the exception of four invoices totaling approximately \$800), and MLS's report is almost complete. Mr. Hajoun testified that he intended to file the report no later than the day following the hearing.

### DISCUSSION, FINDINGS, AND CONCLUSIONS

These matters come before us pursuant to Title II, Article XII, Section 4(g) of the compact which provides in relevant part that

Any such certificate, may . . . on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, . . . for wilful failure to comply with any lawful order, rule, or regulation of the Commission . . . provided, however, that no certificate shall be revoked (except upon application of the holder) unless the holder thereof wilfully fails to comply within a reasonable time, not less than 30 days, to be fixed by the Commission, with a lawful order of the Commission commanding obedience to the rules or regulations or orders of the Commission, . . . found by the Commission to have been violated by such holder.

Taking official notice of the Commission's records we find that, since the hearing in these matters, Cotter, PAWS, and MLS have submitted 1987 annual reports to the Commission. The reports filed by Cotter, PAWS, and MLS are complete and have been accepted by the Executive Director for filing. Therefore, because Cotter, PAWS, and MLS have complied with the regulations which are the subject matter of the above-captioned proceedings, the investigations applying to those carriers shall be discontinued.

Coates, JTS, and Brown's, on the other hand, have each failed to file an annual report as required by the Compact, Title II, Article XII, Section 10. These carriers also failed to appear at the hearing herein and present any evidence showing good cause why their respective operating authorities should not be suspended or revoked as directed by Order No. 3180. They further failed to pay a hearing assessment as directed by Order No. 3180. No briefs or other written material regarding the matter have been received since the hearing from any of them. Over five months have elapsed since the reports here at issue were due, and more than 60 days have elapsed since respondents were directed to file such reports or explanations as might be appropriate regarding failure to file. We have no choice but to interpret as willful these carriers' silence over such a long period of time and their failure to defend in the face of notice that such failure could result in revocation of operating authority. The Commission requests financial information on a routine basis only once a year. The information is of a reasonable nature covering the current operations of the company. Such information not having been received, the operating authority of Coates and Brown's shall be revoked. Certificate No. 112 of JTS was revoked for failure to maintain security for the protection of the public by Order No. 3186, served June 28, 1988. \*/

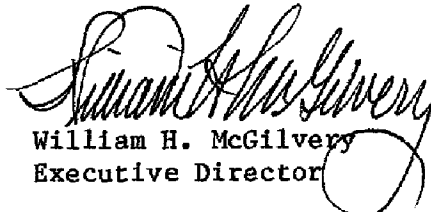
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\*/ Case No. MP-88-22 involving JTS was instituted and carried to hearing because both events occurred prior to the reconsideration deadline set by Order No. 3186.

THEREFORE, IT IS ORDERED:

1. That Case Nos. MP-88-21, MP-88-30, and MP-88-32, Investigation of Compliance and Order to Show Cause Why Operating Authority Should Not be Suspended or Revoked, Directed to: Cotter Limousine of Washington, Inc.; Perkins Ambulance and Wheelchair Service, Inc.; and Madison Limousine Service, Inc., respectively, are hereby discontinued.
2. That Certificate of Public Convenience and Necessity No. 67 of Robert Coates trading as Robert Coates Limousine Service is hereby revoked.
3. That Robert Coates trading as Robert Coates Limousine Service is hereby directed to pay to the Commission within 15 days from the service date of this order the sum of \$11.66, that sum being the amount due to cover the cost of his hearing pursuant to the Compact, Title II, Article XII, Section 19.
4. That Special Authorization No. 112 of Brown's Limousine Crew Car, Inc., is hereby revoked.
5. That Brown's Limousine Crew Car, Inc., is hereby directed to pay to the Commission within 15 days from the service date of this order the sum of \$11.66, that sum being the amount due to cover the cost of its hearing pursuant to the Compact, Title II, Article XII, Section 19.
6. That Japan Travelers Service, Inc., is hereby directed to pay to the Commission within 15 days from the service date of this order the sum of \$11.66, that sum being the amount due to cover the cost of its hearing pursuant to the Compact, Title II, Article XII, Section 19.
7. That any request for reconsideration filed within 30 days immediately following the service date of this order by Robert Coates trading as Robert Coates Limousine Service or Brown's Limousine Crew Car, Inc., and based upon a completed 1987 annual report approved for filing by the Commission's Executive Director shall be considered grounds for reopening the case affected by such report pursuant to Commission Rule No. 27-02.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
William H. McGilver  
Executive Director